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S.B. 602 AAC Employer-Sponsored Meetings (Opposed)

Good Afternoon Senator Prague, Representative Ryan and other members of the Committee. My name is Kia Floyd and I am an Assistant Counsel for Labor & Employment matters for the Connecticut Business and Industry Association (CBIA). CBIA represents more than 10,000 companies throughout the state of Connecticut, ranging from large corporations to small businesses. The vast majority of our companies employ fifty (50) or fewer employees, many of whom make up Connecticut's workforce. I am here today to speak on behalf of all of our member companies. CBIA generally supports any labor and employment related legislation that does not increase the costs of doing business in the state or unreasonably increase administrative burdens on employers in dealing with employment and workplace issues. Unfortunately, **S.B. 602** is not one of these measures; thus, we must oppose this legislation.

S.B. 602 would restrict healthcare entities and other employers that receive over one hundred million dollars in state funding, including Medicaid funds, from communicating with their employees about religious or political matters at employer-sponsored meetings. In effect, this measure would ban employers from talking to their employees at mandatory staff meetings or "captive audience" meetings about many issues which are crucial to the effective management and operation of a business. This legislation would prohibit discussions about: developments at the State Capitol on issues affecting jobs and the workplace; employee health and safety; government contracts; employee health benefit plans; and other key subjects. Although the bill in its current form applies only to healthcare entities, ***if this measure were broadened to include more employers or prohibited subjects, as in prior years, the legislation would negatively impact all businesses in the state.***

Congress approved the National Labor Relations Act (NLRA) in 1935 to encourage a healthy relationship between private-sector workers and their employers. The NLRA was enacted to "insure both the employers and labor organizations full freedom to express their views to employees on labor matters." (*National Labor Relations Act, Section 8(c).* The NLRA is administered by the National Labor Relations Board (NLRB) a federal agency which exercises exclusive authority over the law governing relations between unions and private sector employers. Accordingly, states are precluded from governing any area of law covered by the NLRA. Inasmuch as S.B. 602

would restrict employers from communicating freely with their employees in mandatory staff meetings, ***S.B. 602 is pre-empted by federal law.***

The U.S. Supreme Court has repeatedly held that the NLRB has primary jurisdiction of all claims involving conduct that is arguably protected or prohibited by the NLRA. Clearly, the "captive audience" measure proposed under S.B. 602 is covered by the NLRA because it would prevent employers from speaking freely with their employees about a myriad of issues which may impact upon the workplace.

Furthermore, in 2004 the Office of Legislative Research (OLR) analyzed a similar bill (HB 5490) and found that:

- The NLRA guarantees the employer's right to express an opinion about unionization as long as the employer does not also threaten reprisal or promise a benefit;
- The NLRA governs private sector union organizing, collective bargaining rights, and delineates what is an unfair labor practice. The NLRA created the National Labor Relations Board (NLRB) to administer the law and rule on specific cases alleging unfair labor practices; and
- The NLRB has long ruled that an employer (or a union) holding a captive audience meeting of employees within 24 hours of a union election is not an unfair labor practice, but it is grounds for the NLRB to void the election results and order a new vote. The act and the NLRB allow captive audience meetings more than 24 hours before a union election.

Many businesses speak frequently with their employees at mandatory staff meeting to keep them abreast of key workplace and industry issues. "Captive audience" proposals deny employees their right to information- a right confirmed by the NLRB- and trample on employers' rights to speak with their employees. In fact, one of the biggest grassroots efforts in Connecticut history- the campaign to save the U.S. Navy submarine base in Groton- might not have been successful if the legislature had approved a captive-audience bill in prior years. The "Save Our SubBase" campaign certainly would have fallen under the broadly defined category of political activity, and that may have cost Connecticut's economy a significant loss of jobs.

In today's global economy, businesses are under great pressure to be adapt quickly to changing economic situations, and open communication with employees is crucial to their ability to do so. The NLRA grants employees abundant rights regarding how their employers communicate with them, and employers already have federal restrictions on how they may communicate with employees. The NLRA is designed to ensure balance in the workplace between an employers right of free speech and an employee's right to unionize. Any state legislation seeking to alter this balance of power is pre-empted by the NLRA; therefore we urge you to reject **S.B. 602**.